IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1303 OF 2006
IN
WRIT PETITION NO. 811 OF 2006

Mrs. Sarla Bhatnagar ... Applicant

V/s

Vinod Rajkumar Bhatnagar & ors. ... Respondents

Mr. N.V. Walawalkar i/by Divya Shah Associates for the applicant.

Mr. V.R. Tripathi for the respondents.

Mr. B.J. Deshmane, Clerk of the Court Receiver present.

CORAM: P.V. KAKADE, J.

DATED: 27TH APRIL, 2006
Mentioned. Not on board.

P.C.:

1. Heard learned counsel for both parties. Perused the record.

2. It appears that, in this matter, in Suit No. 807 of 1947 the Court Receiver came to be appointed which was eventually discharged by order dated 16.7.2004.

3. Now my attention is invited to the order passed on

17.7.1998 by this Court in Notice of Motion No. 2175 of 1998 in Suit No. 807 of 1947 whereby the Receiver was specifically appointed while allowing the motion in terms of prayer clause (b) and the motion was disposed of.

4. Today, the representative of the Court Receiver is present who has filed his report submitting that he is in fact in possession of the property by virtue of the order dated 17.7.1998 and is acting in the capacity as the Receiver appointed by the said subsequent order dated 17.7.1998.

5. On this back ground, the application is made today by the applicant seeking continuation of the Court Receiver in respect of the tenanted premises Block No.24, situated on the 3rd floor of the building Bhageerathi Sadan, at 235/237, Cadel Road, Mahim, Mumbai - 400 016 in pursuance of the order dated 17.7.1998 and subsequent order passed on 5.5.1999 in Notice of Motion No. 2175 of 1998.

6. Therefore, I do not see any reason to confuse the two distinct and separate orders with regard to the appointment of the Court Receiver. In other words, the

order dated 17.7.1998 still stands good whereby the Court Receiver is appointed and, therefore, no prejudice will be caused to the respondents if the appointment of the Court Receiver is continued as prayed for.

7. In the result, the application is made absolute in terms of prayer clause (a) and stands disposed of.

It is clarified that the application is allowed except for the bracketed portion of prayer clause (a).

It is further clarified that if the applicant wants to move the Court for the prayer of fixation of royalty at higher rate, he is at liberty to move separately.

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